

The opinion in support of the decision being entered today was not written for publication in a law journal and is not binding precedent of the Board.

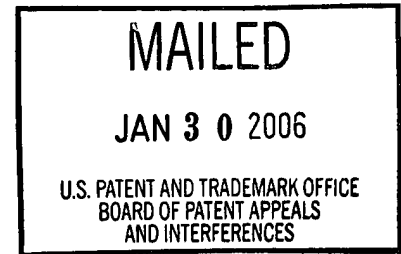
UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte David W. Cannell,
Hitendra Mathur and Nghi Van Nguyen

Application 09/838,197

ORDER VACATING DISMISSAL
AND ORDER RETURNING
UNDOCKETED APPEAL TO EXAMINER



This application was electronically received at the Board of Patent Appeals and Interferences on November 2, 2005. On January 3, 2006, the Board mailed a dismissal of the above-noted application. Since the application had not been assigned an appeal number, the case cannot be dismissed by the Board of Patent Appeals and Interferences. The Board regrets any inconvenience to appellants. The Board hereby vacates the dismissal mailed on January 3, 2006 and replaces it with the Order Returning the Undocketed Appeal to the examiner for the reason that follows.

On July 22, 2004, appellants filed a Final Rejection. On December 13, 2004 appellants filed a Request for Continued Examination (RCE). On November 14, 2005, counsel for the appellants filed an Amendment and Submission under 37 CFR §1.114 to withdraw the Appeal Brief filed on March 15, 2005, and to reopen prosecution and reconsideration of the application. On December 2, 2005, the examiner filed a non-final communication on behalf of appellants stating which claims were pending and which

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claims were being withdrawn. The examiner must consider the RCE and IDS before further review of this application.

Accordingly, it is

ORDERED the application be returned to the examiner:

- (1) to vacate dismissal mailed January 3, 2006;
- (2) to consider the RCE and IDS filed on November 14, 2005;
- (2) for consideration of the Non-Final rejections stated therewith; and
- (3) for further action as may be deemed appropriate.

BOARD OF PATENT APPEALS
AND INTERFERENCES



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